

The Town of Fenwick Island

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**Regular Meeting of the Town Council
The Town of Fenwick Island
August 28, 2009 @3:30 PM
AGENDA**

1. Flag Salute and Call to Order
2. Introduction of New Council
3. Topics for Discussion and Possible Action
 - a. Street Renaming – Town Manager Abbott
 - b. Curbside Recycling Status – Town Manager Abbott
4. Approval of Minutes from July 24, 2009 Regular Council Meeting.
5. Treasurer's Report: Council Member Bunting
6. Town Manager's Report – Win Abbott
7. Department Reports: Beach, Building, Public Works and Police Department
8. Committee Reports: Beach, Environmental
9. Planning Commission: Chris Clark
10. Charter and Ordinance: Council Member Weistling
 - a. Proposed First Reading Chapter 100 Licensing, 100-3
 - b. Proposed First Reading Chapter 116 Peace and Good Order, 116-2
 - c. Proposed Second Reading Chapter 160 Zoning – Small Wind Energy System
 - d. Proposed Second Reading Chapter 73 Burning, Outdoor – Bonfire Fee and Penalty
 - e. Proposed Second Reading Charter §15 – Vacancies and Forfeitures (Town Council)
11. Old Business
12. Public participation
13. President's Report
14. Upcoming Events and Meetings
 - a. September 1 - C&O 9:30 AM
 - b. September 7 – Labor Day Holiday; Town Hall Closed for Regular Business – Open for Sale of Parking Permits
 - c. September 8 – Cultural & Historic Preservation Sub-committee and Planning Commission 1:00 PM and 2:30 PM respectively
 - d. September 9 – Environmental Committee 4:00 PM
 - e. September 9, 10, 11 – Bulk Trash Collection
 - f. September 25 – Regular Council Meeting 3:30 PM
15. Adjournment

This agenda is subject to change to include the deletion of items and the addition of items, including Executive Sessions, which arise at the time of the meeting.

Posted: August 17, 2009; Addition of First Readings August 18, 2009.

Agnes at Fenwick Island.org

From: Win Abbott [wabbott@fenwickisland.org]
Sent: Friday, August 07, 2009 1:54 PM
To: 'Agnes at Fenwick Island.org'
Cc: audrey@theserios.com; 'todd smallwood'; 'william weistling, jr.'; gbunting@fenwickisland.org; glangan@fenwickisland.org; vcarmean@fenwickisland.org; dtingle@fenwickisland.org
Subject: Re-addressing on next Council meeting agenda

Agnes:

Please add "Street Re-naming" to the agenda for the next Council meeting.

The affected streets are:

- 1) West Essex Street Ext. - which will be re-named Ensign Street
- 2) West Farmington St. ext. - which will be re-named Windward Way
- 3) Virginia Ave. Ext. - which will become Dolphin Way
- 4) West West Virginia Ave. - which will become West Virginia Ave. W. (simply "W", not "West")

All:
Bay Street and Bay Avenue are cited in the original letter from Sussex County. But an action was "suggested", not required.

So I propose that we *not change any more names*.

Sussex County will either hand deliver or make a mailing to notify residents - but not both. We should plan on a Fall mailing. This would provide an opportunity to send info regarding Hurricane & Noreaster disaster preparedness, too.

Thank you,

Win

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DRAFT

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Weistling, Bunting, Serio, Clark, Carmean, Tingle and Smallwood.

Topics for Discussion and Possible Action:

- a. Recycling Contract Award – Win Abbott, Town Manager
Mr. Abbott reported that Allied Waste has been awarded the Town Curbside Recycling contract. Service will begin 9/1. They will place their own labels over the current vendor's logo on all bins.
- b. Request by Fenwick Island Lions Club to sell refreshments at Old Fenwick Island Days Festival (8/8) – Town Manager Win Abbott
Motion to allow sales and to waive license fee – Council Member Bunting
Second – Council Member Weistling

DISCUSSION: Mr. Abbott reported that there is no particular class for this type of sale in the business license. He expressed a belief that it is in the Town's interest to allow the sale(s) and to waive any licensing fee.

Vote to to allow Fenwick Island Lions Club to sell refreshments at Old Fenwick Island Days Festival and to waive license fee: All in Favor
Motion carried (7-0)

- c. Lighthouse Cove Marina Permit Application – Council Member Smallwood
Council Member Smallwood advised that, although the townhomes are located on SR54 and not within the corporate limits of The Town of Fenwick Island, this is an area of concern for the town. At low tide the water is shallow with a narrow passage. The proposal is to build 20' long finger piers. This will exacerbate present conditions and add the possibility of gas/oil spillage into an environmentally sensitive area. Mayor Serio added that this is within the Town's Area of Concern and that letters have been written in the past regarding construction in the area.

Motion to forward a letter from the Town Manager to DNREC stating the Town's concerns –
Council Member Tingle
Second – Council Member Clark

DISCUSSION: Council Member Tingle noted that the previous correspondence (2004) is on file in the Town Manager's office. Council Member Clark would like the letter to reference that this area is noted as an Area of Concern in the Town's Comprehensive Plan. Council Member Weistling asked to see copies of the correspondence on file. Council Member Clark noted that this is time-sensitive. Mayor Serio advised that the previous correspondence, if located on time, can be attached to the new letter to be sent.

PUBLIC PARTICIPATION:

Jack Pyne (6 E Bayard St) – asked about the present owners of the area mentioned. Mayor Serio advised that it is the Condominium Association.

Buzz Henefin (48 W Farmington St) – believes that the last time this was addressed was in 2004 at which time there was strong public sentiment against it that resulted in withdrawal of the request. Council Member Weistling asked if it was advisable for the Town to request a public

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hearing in its letter to DNREC; Mayor Serio advised that strong objections should be enough to cause a withdrawal of the request.

Bob Cooper (38999 Cove Lane) - lives near the area in question and will be directly impacted by it. He stated that the letter from DNREC requests citizen objections be put in writing to them and then a hearing will be scheduled.

Vote to forward a letter from the Town Manager to DNREC stating the Town's concerns: All in Favor

Motion carried (7-0)

- d. Request for Travel Expenses for Fenwick Island Lifeguard Patrol – Council Member Smallwood
Council Member Smallwood requested the Town offer \$500 as they have done in prior years to assist the lifeguards with travel expenses for the National Competition in Florida.

Motion to offer travel expenses - Council Member Carmean

Second – Council Member Clark

DISCUSSION: Becca McWilliams reported that 6 lifeguards will attend the competition. The Beach Committee raised \$2100 at the recent bonfire. Expenses are \$200 air fare and 4 nights lodging @\$125 plus a car rental fee. Current funds are short \$1000. Mayor Serio confirmed that the Bethany-Fenwick Chamber of Commerce awarded \$500 to the FIBP to assist with coverage during September. Council Member Clark questioned the lifeguard budget; Council Member Smallwood offered that the annual lifeguard dinner might be scrapped to save money. Council Member Bunting reported that the lifeguards were 58% of their budget as of the end of June 2009. In response to questions from Council, Becca McWilliams reported that the lifeguards have been involved in fund-raising but the present unfavorable economic conditions are hampering their efforts. Total cost of the trip for all participants is approximately \$3000. Mayor Serio queried council on the amount of donation to be approved; Council Member Carmean noted the donation of \$500 in past years as well as the Chamber of Commerce recent donation of that amount to the FIBP. Council Member Weistling suggested that lifeguards begin fund raising early in the season next year.

Amended Motion to authorize the donation of \$500 to the Fenwick Island Beach Patrol to assist with travel expenses to the upcoming National Competition – Council Member Carmean

Second – Council Member Clark

Vote to authorize donation of \$500 to FIBP for Travel – All in Favor

Motion carried (7-0)

- e. Town Safety – Council Member Carmean
Council Member Carmean

Council Member Carmean presented a Powerpoint Presentation to the assembly. Mrs. Carmean will provide a copy to be included in these minutes. Council Member Carmean noted that she is concerned with an increase in the Fenwick Island Police Department Budget. The Department has five full time officers who provide 24-hour service; the purpose of the police force is to provide overall safety of residents by enforcing traffic, town code and parking regulations. They provide home inspections during the winter months. Traffic, parking issues and bicycle and pedestrian safety are concerns. Mrs. Carmean identified three areas of concern: a public safety building, a visible police presence and 911 call responses. Council Member Carmean identified problems with the current police department physical plant. Regarding 911 call response, Mrs.

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Carmean identified a need to determine a true 911 emergency and for better record-keeping of FIPD response outside of the corporate limits. Council Member Carmean is concerned also with police visibility on the streets.

DISCUSSION: Mayor Serio noted that talks are continuing regarding co-locating the FIPD and the Bethany Beach Volunteer Fire Company; funding is a problem. Mayor Serio agreed that the 911 call response situation doesn't appear to work but that other towns are experiencing the same problem. Mayor Serio expressed a belief that it may be necessary to establish an *ad hoc* committee to explore public safety issues and to review policies and procedures.

PUBLIC PARTICIPATION:

Marcia Frederick (1605 Bunting Avenue) – questioned statistics/record-keeping responsibility. She questioned the amount of time spent on statistical reporting and noted that the Chief's time seems to be spent doing paperwork. FIPD Chief Boyden responded it is his duty to collate officers' reports. Chief Boyden noted that, according to Town Charter, the police department's jurisdiction extends one mile beyond the borders of the town. Chief Boyden spends approximately one hour a month generating the report to Council that is included in council packets. Chief Boyden works one duty round (12 hours) per week of regular police work.

Buzz Henifin (48 W Farmington St EXT) – understands that the State of Delaware has funded the addition of police officers and asked if they have provided 911 relief. Chief Boyden advised that most of the time those officers are in the northern portion of the sector.

Peter Frederick (1605 Bunting Avenue) – asked the status of funding from the Sussex County Council. Mayor Serio advised that funding has been cut in half. Mr. Frederick also noted that it appears that the police department spends less than 3% of its time on 911 calls from the most recent statistics that were mentioned. Council Member Carmean advised that she does not have statistics on officer location regarding 911 call responses. Chief Boyden noted that the FIPD receives technical and logistical support from the State of Delaware especially in the form of IT and forensics expertise and he understands that increased manpower for 911 call response is not available.

Daniel Rapp (Lighthouse Road) – volunteered to sit on the *ad hoc* committee as he is familiar with the problems they will discuss.

Gail Warburton (10 W Farmington St) – asked if police respond to all 911 calls or just to emergency 911 calls. Council Member Carmean advised that she is not sure and would feel better if she understood how "emergency" is defined.

Mike Quinn (5 W Houston St) – noted that according to the minutes from the regular council meeting in June that the Town budget has been cut but that the Police Department budget has been increased by \$50,000. Council Member Carmean advised that the department must replace one unreliable patrol vehicle at \$25,000. Mr. Quinn – where is the remaining \$25,000 being spent; Mayor Serio – on health insurance; Council Member Bunting – on Emergency Management Equipment, too.

Jack Pyne (6 E Bayard St) – noted that a Fenwick Island Patrol vehicle was damaged when it responded to a call on State Route 54. The Town paid for repairs and wondered if the cost of repairs has been reimbursed. Council Member Carmean advised that the matter has been referred to the courts and that this is a long process; Mayor Serio advised that the Town hopefully will be reimbursed.

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No further action or discussion at this time

Approval of Minutes:

Motion to Approve the Minutes of June 26, 2009 Meeting: Council Member Clark

Second: Council Member Carmean

DISCUSSION: Council Member Carmean requested that the minutes reflect that the Environmental Committee has been exploring ways to improve the environment around town, including a rain garden.

Vote to approve minutes with the noted change: All in favor

Motion carried (7-0)

Treasurer's Report:

Council Member Bunting presented Treasurer's Report. Mr. Bunting noted that the Town ended the month of June at 96% of budget. Revenue has dropped severely including a dramatic drop in Transfer Tax and Interest Income. The FY10 Budget has been cut but there is no loss in services.

Motion to Accept the Treasurer's Report: Council Member Carmean

Second: Council Member Clark

DISCUSSION: None

Vote to accept the Treasurer's Report as presented: All in favor

Motion carried (7-0)

Town Manager Report:

- Town Manager, Win Abbott, reported that Property Tax bills have been sent out. Those wishing to contest their assessments must notify his office no later than July 27 to arrange a hearing on July 30.
- The tax bill shows a new/different item - Comprehensive Refuse Fee. This replaces the Trash Fee and includes the cost of recycling and bulk trash pickup and disposal. This fee (@292.00) is within 1% of the actual cost of providing these services.
- The Administrative office is seeking ways to reduce the volume of copies produced for meetings. The Town web site is fully transparent and has links to all agenda and minutes. The public is urged to visit the web site and to print the materials at home prior to meetings.
- Regarding the new budget, Mr. Abbott is shopping services and vendors in order to realize more savings.
- Senator Carper's office and others have expressed an interest in knowing what "shovel-ready" projects might be sent forward for consideration in the current stimulus program. Mr. Abbott has repackaged the 2002 Pedestrian Plan and sent it off for consideration.

Department Reports:

- Beach Patrol – Report is included in the council packet.
- Building Official – Report is included in the council packet.
- Public Works: Report is included in the council packet.
- Fenwick Island Police Department: Chief Boyden noted that the report is included in the council packet. There will be a second Pedestrian and Bicycle Safety Checkpoint on 8/19/09 from 7:30 – 10 AM between Bayard and Cannon Streets on Bunting Avenue. The FIPD still has free emergency cell phones available.

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Committee Reports:

- Beach Committee –Becca McWilliams thanked all who assisted with the Annual Bonfire especially Gardner Bunting for use of electrical outlets; Harris Teeter for donation of water; the Horner grandchildren for the donation of \$104 proceeds from their lemonade stand; Kim Allison for \$335 proceeds from sale of snow cones; Town of Fenwick Island for donation of the cost of the DJ and glow sticks. The 50/50 raffle netted \$340. FIBP won the annual Frisbee championship for the third year in a row.
- Environmental Committee – Buzz Henifin reported that the committee wants to increase attendance at meetings. A recent meeting was held at 7PM and the next meeting will be at 4PM. Agenda will include a discussion of speakers and issues for the next year. Center for Inland Bays is doing hydrologic testing in order to determine the best location for a rain garden. Council Member Carmean noted that Chuck Welch is manufacturing more rain barrels; Carolyn & Jack Smith will supply barrels from their car wash.

Planning Commission:

Winnie Lewis reported Old Fenwick Island Days preparations are being finalized. A \$1500 grant has been received from Delaware Humanities Forum. Activities are on line and on the posters that have been distributed. WBOC will interview a representative for a noon-time show. Dairy Queen will offer reduced price ice cream on walking tour day; Fenwick Island Lions Club will sell hot dogs, etc on August 8. August 1 is the 150th birthday of the lighthouse.

Charter & Ordinance:

- Council Member Weistling motioned to accept a First Reading of Chapter 160 Zoning – Small Wind Energy (copy attached to this report)
Council Member Clark seconded.

DISCUSSION

Council Member Weistling noted that the proposed change is modeled from one adopted by Ocean City, MD and other municipalities and is tailored to meet the needs of The Town of Fenwick Island. Flexera aided with research. This change proposes a 40' height limit for the tower while maintaining the 30' height limit for structures and is at a 1:1 ratio to protect neighboring properties and utilities. This is not intended to address roof-top installation and is intended to address towers only. Recent Delaware law has established that communities cannot ban their installation. This change requires a public hearing.

PUBLIC PARTICIPATION

- Pete Frederick (1605 Bunting Ave) – asked the name of the authority which passed the above mentioned State of Delaware law. Council Member Weistling advised that the State Assembly recently passed the law and that the Town's Legal Counsel is looking into it.
- Mike Quinn (5 W Houston St) – asked if the State of Delaware has given any ideas/templates on writing a local ordinance. Council Member Weistling responded negative; the State law says that a municipality cannot ban the use of wind turbines and did make mention of decibel level.
- Daniel Rapp (Lighthouse Road) – offered to provide information on bird association groups and their research on the subject.

Vote to accept the First Reading of Chapter 160 Zoning – Small Wind Energy System: All in Favor.
Motion passed (7-0)

- Council Member Weistling motioned to accept a First Reading for Chapter 73 Burning, Outdoor – Bonfire Fee and Penalty (copy attached to this report)
Council Member Clark seconded

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DISCUSSION:

Council Member Weistling advised that this change is being made to allow flexibility in the fee schedule for bonfires. The fee is removed from Code and placed in the Fee Schedule as per advice of Town's Legal Counsel.

Vote to accept the First Reading Chapter 73 Burning, Outdoor – Bonfire Fee and Penalty: All in Favor.
Motion Passed (7-0)

- Council Member Weistling motioned to accept a First Reading for Charter §15 – Vacancies and Forfeitures -Town Council (copy attached to this report)
Council Member Carmean seconded

DISCUSSION:

Council Member Weistling advised that this change evolved from a review of Section 6 (a) Elections. This change is similar to one enacted recently by the Town of Dagsboro and is recommended by Town Solicitor Steen. Council Member Carmean verified with Council Member Weistling that this change must be approved by the State Legislature. Council Member Tingle believes that four (4) absences is too lenient; Council Member Smallwood believes that it is not necessary for the absences to be consecutive. Council Member Clark asked if there is a specific reason four (4) absences is chosen vs. the current two (2). Council Member Weistling advised that the number came from committee discussion. Council Member Carmean suggested removing "consecutive" and Council Member Smallwood suggested three (3) absences.

PUBLIC PARTICIPATION:

Mike Quinn (5 W Houston St) – asked if another section of the Charter addresses the process for filling vacancies. Council Member Weistling advised that this Section 15 addresses it. Council Member Carmean added current wording should be added to new Section 15 (A).

Council Member Weistling offered the following amended motion: Existing Section 15 – Vacancy language is now added to Proposed Section 15 (A); that Section 15 (B) 4 be changed to read "Fails to attend three (3) regular Town Council meetings per fiscal year without being excused by Town Council vote."

Council Member Clark seconded.

Vote to accept the amended proposal to Section 15 – Vacancy: All in Favor.
Motion Passed (7-0)

Old Business:

- None

Public Participation:

- Hans Siemers (1405 Bora Bora St) – objected to the Town Comprehensive Refuse Fee being applied on an annual basis as he is only a summer resident. He believes that individual properties should be able to make their own trash collection arrangements. Mayor Serio replied that the town has contracted for collection 12 months a year. Council Member Carmean added that this is customary practice to provide year-round collection as no one is certain who is in residence at any given time.
- Marlene Quinn (5 W Houston St) – Regarding the wind turbines proposed for Warren's Station, Mrs. Quinn questioned if the combined decibel level of all 20 will have the same level as an air conditioning unit; Mayor Serio responded that all units combined will equal one air conditioner.

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- Jack Pyne (6 E Bayard St) – asked if the Town might use Stimulus Funds to dredge the canals. Mayor Serio advised that both she and Council Member Bunting are monitoring the funding situation but that nothing is available at this time. Ownership issues have been resolved; State of Delaware owns the channels and there are no records of ever dredging the channels.
- Buzz Henifin (48 W Farmington St Ext) – advised that the Center for the Inland Bays Anchorage Canal Assessment Group meets on 8/19/09 @ 9AM and that oyster floats are being moved to the Lewes-Rehoboth Canal. CIB Deck Party is 7/30/09 @7PM.
- Pete Frederick (1605 Bunting Ave) – questioned where the income from the Junior Lifeguard Program is deposited. Mayor Serio advised that the funds go into the lifeguard budget but can be earmarked for other purposes.
- Mike Quinn (5 W Houston St) – asked Town Manager Abbott if he could compel Moor Disposal to return trash receptacles to their original locations. He also noted that the new street sign at Cannon and Bunting is missing.

President's Report:

- Mayor Serio advised that she has received a letter from a citizen regarding the House of Welsh Restaurant. Mayor Serio noted that she has spoken with Town Manager Abbott and he advises that several of the issues have been addressed and corrected. Mayor Serio will make the letter available for anyone who wants to read it. Council Member Carmean asked for the letter to be included in the minutes. Marty Welsh advised that he has a copy of the letter and offered rebuttal to the contents and does not believe it should be included in the minutes nor on the web site as he contends it is innuendo and unproven. Mayor Serio will check with Town Solicitor Steen before including in minutes.
- Agnes DiPietrantonio has been awarded a 5-year Service Award.
- Mayor Serio read a letter she received (copy attached) from Congressman Mike Castle marking the 150th Anniversary of the Fenwick Island Lighthouse.
- Mayor Serio made note of upcoming meetings.

Motion to Adjourn: Council Member Bunting

Second: Council Member Clark

Vote: All in favor

Motion passed (7-0)

Mayor Serio adjourned the meeting at 5:30 PM.

Respectfully submitted,

Diane Tingle, Secretary

Recorded and Transcribed by Agnes DiPietrantonio, Town Clerk

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Proposed 1st Reading - July 24, 2009

Chapter 160 – Zoning:

Add:

Chapter 160-2B (Definitions and Word Use):

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine (rotor, blades, generator, alternator, tail), a tower, and associated control or conversion electronics, and which is intended primarily to reduce on-site consumption of utility power.

TOTAL HEIGHT (SMALL WIND ENERGY SYSTEM): The distance measured from ground level (including the wind turbine itself) to its highest point.

Add:

Chapter 160-7 – Renewable Energy Systems:

B. Small Wind Energy Systems - Tower

1. Provisions, regulations and conditions for small wind energy systems are as follows:

- a. **Maximum Rated Capacity:** No more than one tower-mounted small wind energy system may be placed on a property and may not exceed 10 kilowatts of production.
- b. **Minimum Yard Requirement:** The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to 1.1 times the total height. A turbine may be located at a property line by variance from the Board of Adjustment which shall consider whether the abutting property owner objects.
- c. **Total Height:** Total height (including the wind turbine itself) shall not exceed 40 feet above grade and tower shall be independent of any other structures on property.
- d. **Noise:** Sound produced by the system under normal operating conditions, as measured at the property line, shall not exceed fifty-five (55) dBA. Manufacturer's specifications will serve as verification of dBA levels. Any complaints that noise from the small wind energy system exceeds 55 dBA shall be accompanied by an independent certified source. This sound level may be exceeded during short-term events such as utility outages and/or severe windstorms.
- e. **Appearance:** Wind turbines shall be painted in a non-obtrusive color such as the manufacturer's default color option.
- f. **Compliance with Building Code:** System must obtain a building permit and must comply with applicable requirements of the International Building Code.
- g. **Inspections:** A final inspection by Sussex County Building Code Official of the installation, including an electrical inspection, is required before a system may be activated.
- h. **Requirement for Engineered Drawings:** Building permit applications for small wind energy systems shall be accompanied by standard drawings of the system and stamped engineered drawing of the tower, base, footings, and/or foundation (with consideration

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given to specific soil conditions) as provided by the manufacturer. A manufacturer's specification sheet including a photograph of the system shall accompany the application for the building permit.

- i. **Compliance with Federal Aviation Administration Regulations:** Small wind energy systems shall comply with FAA regulations described in FAR Part 77 of the FAA guidance on airspace protection.
- j. **Compliance with National Electric Code:** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. Wiring and power lines shall be wireless or underground whenever possible.
- k. **Unsafe or Abandoned Systems:** If a system is found to be unsafe by the Building Official, the system must be repaired and made code compliant within 30 days of notification of the property owner. A system that is unused or abandoned for a period of more than 12 months shall be ordered by the Building Official to be made operational or removed within 30 days of such order.
- l. **Signage:** No signs or advertising shall be displaced on any part of a system other than the manufacturer or installer's identification and appropriate safety warning signs.
- m. **Lighting:** No illumination of the system shall be permitted unless required by the FAA, or unless the tower is also used for street or parking lot lighting, or some similar compatible use.
- n. **Safety:** Any steps or other devices to assist the climbing of the tower must start at 12' above ground level.

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Proposed 1st Reading – July 24, 2009

EXISTING:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit of \$50 before issuing a permit for a bonfire on the beach, with the provision that \$40 shall be returned if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored, and \$10 shall be retained as a permit fee.

§ 73-3. Rules for Bonfire:

- H. The beach must look as though you were never there. Thoroughly clean area and remove any trash or other debris. Remember to leave only your footprints.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$50 and costs for each and every offense.

PROPOSED:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit before issuing a permit for a bonfire on the beach with the provision that it shall be returned only if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored. In addition, the bonfire permit holder shall pay a fee and deposit to the Town as set by resolution of the Town Council passed annually.

§ 73-3. Rules for Bonfire:

- H. Thoroughly clean area and remove any trash or other debris.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$100 and costs for each and every offense.

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Proposed 1st Reading – July 24, 2009

Charter – Section 15:

Existing:

Section 15 – Vacancy.

- A. In case of vacancy created in the Town Council, by death, resignation or otherwise, the remaining members of the Council may fill such vacancy by appointment. The person so appointed shall serve for the unexpired term or until his or her successor shall be elected and duly qualified.

Proposed:

Section 15 – Vacancies and Forfeitures:

- A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or forfeiture of such office.
- B. Forfeiture proceedings. A forfeiture of such office shall occur when any Town Council member:
- (1) Is no longer qualified to hold such office;
 - (2) Willfully violates any provision of this Charter;
 - (3) Is convicted of any felony or crime involving any felony; or
 - (4) Fails to attend four (4) consecutive regular Town Council meetings year without being excused by Town Council vote.
- C. Determination concerning Forfeiture. Where the conditions set forth in Section 15 (B), items (3) or (4) occur, forfeiture shall be automatic. Where the conditions set forth in 15 (B), items (1) or (2) are alleged, forfeiture shall be approved by the remaining Town Council members. Such decision shall be made in executive session, and if the Town Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Town Council, which hearing is to be held within forty five (45) days of the written request and at which hearing such member may appear with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.
- D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him/her."

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MICHAEL N. CASTLE
MEMBER OF CONGRESS

July 20, 2009

Ms. Audrey Serio
800 Coastal Hwy
Fenwick Island, DE 19944

Dear Ms. Serio:

I would like to extend my congratulations to you as Mayor of Fenwick Island as well as to its residents regarding the 150th anniversary of the Fenwick Island Lighthouse.

The grassroots campaign to preserve such a historic building is an inspiration and a constant reminder of the power of determined citizens to take charge of their communities. Since its construction 150 years ago, the lighthouse has served as a monument to the community, demonstrating the significant impact of Fenwick Island to the eastern seaboard.

I am glad to know that the residents of Fenwick Island place so much regard for their cultural heritage and realized the historical and symbolic importance of such a storied landmark. I commend you all for your efforts, and wish you all the best with your celebration from August 1st-8th on this momentous occasion.

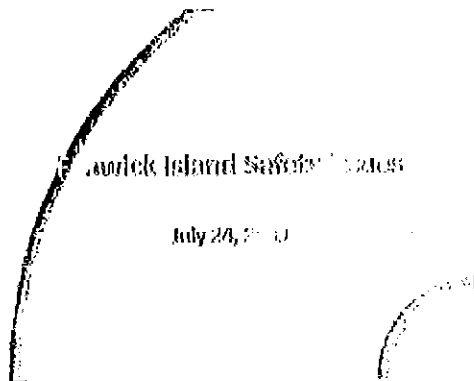
Sincerely,

A handwritten signature in black ink, appearing to read "Mike", written in a cursive, flowing style.

Michael N. Castle
Member of Congress

NOT PRINTED AT GOVERNMENT EXPENSE

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Some Background Info

- Size of Fonwick Island: Approximately 1/3 of a square mile, bisected by Route 1, a primary north-south artery.
- The Police Force: Five full-time police officers, including a police chief, provide 24 hour service. New budget = \$522,250 (Increase of \$57,318)
- Purpose: Provides for overall safety for residents, by enforcing traffic, parking, & town code regulations. Also, takes care of home inspections during the winter months.

Ground Rules, Please!

- Let's hold the comments until the "show" is over.
- Keep in mind that Council members usually cannot comment on specific personnel issues in a public forum.
- Council has adopted a flow chart that moves through the Mayor and Town Manager to individual staff members.

Yes! We have traffic...



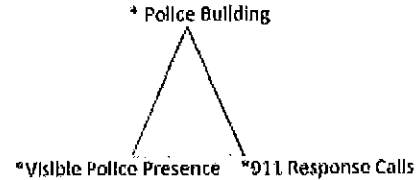
And parking issues...

At the beach ends

And on private property



Three Major Problem Areas



Let's not forget special safety problems

For bikers

And pedestrians



"Headquarters"

• Two Rooms: Chief's Office and small squad rooms interspersed with other town hall administrative offices.

• Holding Cell, Shower and Locker Room - 1972

• No longer meets State and Federal policies

• Where's the 1970s up to the entire presentation led by Bob Mironov & center 11647



Minutes of the July 24, 2009 Regular Council Meeting

The Police "Station"

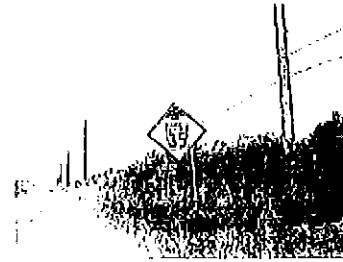
Work Room



Chief's Office



Police Visibility- Is the glass half empty or half full?



911 and Other Town Assistance Calls

- Several years ago, the Town signed contracts agreeing to assist the State Police and other towns during emergencies.
- Unfortunately "emergency" has not been defined very well!
- Very often Fenwick Island has no police protection, especially at night.
- Last summer, one equipped police car was badly damaged when attacked by an inebriated customer at a local Rt. 54 bar. Luckily, the FI officer was OK.
- Meanwhile guess who pays the bills???
- Inadequate records of these calls are kept. A conservative "guess-imate" for an 8 month period is 120 police hours spent on out-of-town assistance calls.

Perceptions:

- Some residents are satisfied, but some are not.
- The police cars (all four of them) often remain parked by the side of town (all) hour after hour, including during the afternoon rush into Ocean City.
- During the last 14 months, one fatality plus numerous close calls between bikes, pedestrians, and vehicles have occurred.
- Is there anything else that can be done?



Suggestions ...Let's Be Proactive!

- Acknowledge that there are issues. Set some goals!
- Establish an accurate and thorough record keeping system for the 911/Emergency calls.
- Meet with the 911/Emergency Agency to define "emergency" and discuss costs.
- Form a Community Task Force to meet with the FI Police Department: Establish a safety dialogue, work on a new police building, set up a call list and petitions to officials for the DelDOT project, etc. Check into the use of mobile speed signs.

Let's Create a Win-Win Situation!

- **STEP ONE**
Recognize that there is room for improvement.
- **STEP TWO**
Support Council's efforts to address the issues and offer suggestions.

TOWN OF FENWICK ISLAND
FINANCIAL STATEMENT
FOR THE PERIODS ENDED JULY 31, 2009

Jefferson, Urian, Doane & Sterner, P.A.

A PROFESSIONAL CORPORATION • CERTIFIED PUBLIC ACCOUNTANTS

DAVID R. URIAN, CPA
DAVID C. DOANE, CPA
CHARLES H. STERNER, JR., CPA, CVA
SHELDON L. FORNEY, CPA
JAY M. STEVENS, CPA, PFS
ROGER R. REED, CPA
ELAINE E. GRAVES, CPA

TRUITT W. JEFFERSON, CPA, DIRECTOR
RETIRED

ANITA Y. SMITH, MEd, DIRECTOR
BRYAN L. HUDSON, CPA, DIRECTOR

To the Town Council
Town of Fenwick Island
Fenwick Island, Delaware

We have compiled the accompanying statement of revenues and expenditures - budget and actual - general fund of the Town of Fenwick Island for the periods ended July 31, 2009 in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The financial statements have been prepared on the modified cash basis of accounting.

A compilation is limited to presenting in the form of financial statements information that is the representation of management. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

Management has elected to omit substantially all of the disclosures ordinarily included in financial statements prepared on the modified cash basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Town's revenues and expenditures. Accordingly, these financial statements are not designed for those who are not informed about such matters.

These financial statements present only revenues and expenses of the General Fund and do not purport to present the financial position of the Town of Fenwick Island for the period ended July 31, 2009 in conformity with accounting principles generally accepted in the United States of America. Accordingly these financial statements are not designed for those who are not informed about such matters. We are not independent with respect to the Town of Fenwick Island.

Jefferson, Urian, Doane & Sterner, P.A.

Ocean View, Delaware
August 14, 2009

TOWN OF FENWICK ISLAND
STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND
FOR THE PERIODS ENDED JULY 31, 2009

- 2 -

	<u>Actual July 09</u>	<u>Actual Aug - July 09</u>	<u>Budget</u>	<u>% of Budget</u>
Revenues				
Taxes				
Property Taxes	\$ -	\$ 620,522	\$ 625,000	99%
Realty Transfer Tax	-	249,756	-	100%
Rental Receipt Tax	17,935	265,490	262,000	101%
Prior Year Revenue in Excess of Expense	-	-	169,000	0%
Total Taxes	<u>17,935</u>	<u>1,135,768</u>	<u>1,056,000</u>	<u>108%</u>
Charges for Services - Administration				
License Fees - Contractors	1,382	36,277	35,000	104%
License Fees - Rentals	1,392	21,984	22,500	98%
License Fees - Merchants	262	24,447	25,000	98%
Ambulance Service Fee	-	29,832	26,730	112%
Garbage Collection Fees	-	123,254	121,000	102%
Cablecast Cable Fees	-	24,483	32,000	77%
Building Permit Fees	11,389	38,864	100,000	39%
Total Charges for Services - Administration	<u>14,425</u>	<u>299,141</u>	<u>362,230</u>	<u>83%</u>
Fines & Forfeitures				
Tax Penalties	-	2,594	3,000	86%
Traffic Fines	3,517	33,705	35,000	96%
Parking Violation Fees	3,650	17,361	20,000	87%
Total Fines & Forfeitures	<u>7,167</u>	<u>53,660</u>	<u>58,000</u>	<u>93%</u>
Investments				
Interest	82	7,460	18,168	41%
Total Investments Income	<u>82</u>	<u>7,460</u>	<u>18,168</u>	<u>41%</u>
Miscellaneous Revenue - Administration				
Parking Permits	5,210	16,150	20,000	81%
Sale of Equipment	5	2,070	5,000	41%
Miscellaneous Income	595	4,608	-	100%
Total Miscellaneous Revenue - Administration	<u>5,810</u>	<u>22,828</u>	<u>25,000</u>	<u>91%</u>
Miscellaneous Revenue - Police				
Police Accident Report Fee	150	325	-	100%
Total Miscellaneous Revenue - Police	<u>150</u>	<u>325</u>	<u>-</u>	<u>100%</u>
Intergovernmental Revenue Lifeguard				
State Beach Lifeguard Revenue	11,000	47,000	65,000	72%
Total Intergovernmental Revenue Lifeguard	<u>11,000</u>	<u>47,000</u>	<u>65,000</u>	<u>72%</u>
Intergovernmental Revenue Police				
County Police Grant	-	25,000	25,000	100%
Salary Reimbursement	1,174	5,903	13,000	45%
DEMA Homeland Security Grant	-	-	-	0%
Total Intergovernmental Revenue Police	<u>1,174</u>	<u>30,903</u>	<u>38,000</u>	<u>81%</u>
Total Revenues	<u>\$ 57,743</u>	<u>\$ 1,597,085</u>	<u>\$ 1,622,398</u>	<u>98%</u>

See accountants' report.

TOWN OF FENWICK ISLAND

- 3 -

STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND

- CONTINUED

FOR THE PERIODS ENDED JULY 31, 2009

	Actual July 09	Actual Aug - July 09	Budget	% of Budget
Expenditures				
POLICE DEPARTMENT				
Police Salaries	\$ 30,591	\$ 266,959	\$ 300,000	89%
Police Life Insurance	95	1,246	1,250	100%
Police Health Insurance	4,113	48,379	72,000	67%
Police Payroll Taxes	2,751	24,400	24,000	102%
Police Pension Expense				
Police - State Pension Payments	-	(43,246)	(36,000)	120%
Police Pension Expense	4,670	59,113	36,000	164%
Police Pension Expense - Net	4,670	15,867	-	
Police Workers Compensation	-	16,547	21,000	79%
Police Supplies	20	1,353	1,000	135%
Police Office Equipment Maintenance	228	3,295	5,000	66%
Police Printing & Advertising	-	1,417	2,000	71%
Police Uniforms	165	4,627	5,000	93%
Police Computers	682	3,411	4,000	85%
Police Vehicle Maintenance	89	3,347	5,000	67%
Police Gas & Oil	913	9,383	18,000	52%
Police Vehicle Acquisition	-	25,226	25,000	101%
Police Training	-	2,847	3,000	95%
TOTAL POLICE DEPARTMENT	\$ 44,317	\$ 428,304	\$ 486,250	88%

See accountants' report.

TOWN OF FENWICK ISLAND

- 4 -

STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND

- CONTINUED

FOR THE PERIODS ENDED JULY 31, 2009

	Actual July 09	Actual Aug - July 09	Budget	% of Budget
Expenditures				
LIFEGUARDS				
Lifeguard Salaries				
Lifeguard Salaries - State	\$ 28,706	\$ 60,956	\$ 60,000	102%
Lifeguard Salaries - Town	41,933	109,384	120,000	91%
Total Lifeguard Salaries	70,639	170,340	180,000	95%
Lifeguard Payroll Taxes				
Lifeguard Payroll Taxes - State	2,581	5,343	5,000	107%
Lifeguard Payroll Taxes - Town	3,816	9,621	9,400	102%
Total Lifeguard Payroll Taxes	6,397	14,964	14,400	104%
Lifeguard Workman's Comp	-	7,584	14,418	53%
Lifeguard Supplies & Equipment	74	2,784	3,000	93%
Lifeguard Uniforms	285	6,202	6,000	103%
Lifeguard Junlor Guards	(2,475)	(4,547)	400	-1,137%
Lifeguard Chair & Sign Maintenance	-	745	500	149%
Lifeguard Training	65	377	500	75%
Lifeguard USLA Certification	-	600	900	67%
Lifeguard Gasoline	91	267	200	134%
Lifeguard Miscellaneous	500	885	500	177%
Lifeguard Capital Expenditures	152	6,315	-	100%
TOTAL LIFEGUARDS	\$ 75,728	\$ 206,516	\$ 220,818	94%

See accountants' report.

TOWN OF FENWICK ISLAND

- 5 -

STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND

- CONTINUED

FOR THE PERIODS ENDED JULY 31, 2009

	Actual July 09	Actual Aug - July 09	Budget	% of Budget
Expenditures				
PUBLIC WORKS DEPARTMENT				
Public Works Salaries	\$ 16,913	\$ 147,420	\$ 150,000	98%
Public Works Life Insurance	62	802	800	100%
Public Works Health Insurance	2,771	30,270	32,000	95%
Public Works Payroll Taxes	1,521	12,716	12,000	106%
Public Works Pension Expense	1,551	12,874	13,000	99%
Public Works Workman's Comp Insurance	-	8,963	12,500	72%
Public Works Training	-	489	1,500	33%
Public Works Office Supplies	-	16	500	3%
Public Works Shop Supplies	83	986	2,500	39%
Public Works Shop Equipment	8	674	2,000	34%
Public Works Safety Equipment	-	398	-	100%
Public Works Printing & Advertising	-	-	700	0%
Public Works Utilities	107	4,013	5,000	80%
Public Works Bldg Maintenance	7	185	1,000	19%
Public Works Uniforms	-	600	1,500	40%
Public Works Gas & Oil	265	3,274	8,000	41%
Public Works Repairs & Maintenance	16	1,594	3,000	53%
Public Works Landfill Charges	-	1,330	-	100%
Public Works Miscellaneous Expense	-	39	500	8%
Public Works CDL Testing	-	538	1,000	54%
TOTAL PUBLIC WORKS DEPARTMENT	\$ 23,304	\$ 227,181	\$ 247,500	92%

See accountants' report.

TOWN OF FENWICK ISLAND
STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND
- CONTINUED
FOR THE PERIODS ENDED JULY 31, 2009

- 6 -

	<u>Actual</u> <u>July 09</u>	<u>Actual</u> <u>Aug - July 09</u>	<u>Budget</u>	<u>% of Budget</u>
Expenditures				
ADMINISTRATION				
Administration Salaries	\$ 19,037	\$ 166,867	\$ 175,000	95%
Administration Life Insurance	57	544	600	91%
Administration Health Insurance	3,787	35,479	42,000	84%
Administration Payroll Taxes	1,712	13,996	14,000	100%
Administration Pension Expense	864	11,624	16,000	73%
Administration Workers Comp	-	1,379	1,700	81%
Administration Financial Services	2,500	31,500	30,000	105%
Administration Office Equip Maintenance	484	11,032	8,000	138%
Administration Office Supplies	105	4,505	11,000	41%
Administration Travel Reimbursement	-	865	3,000	29%
Administration Vehicle Acquisition	358	4,301	5,000	86%
Administration Vehicle Fuel/Maintenance	25	1,074	3,000	36%
Administration Printing & Advertising	-	84	2,000	4%
Administration Training	-	746	2,000	37%
Administration Parking Permits	-	1,669	3,000	56%
Administration Capital Expenditures	-	1,215	-	100%
TOTAL ADMINISTRATION	<u>\$ 28,929</u>	<u>\$ 286,880</u>	<u>\$ 316,300</u>	<u>91%</u>

See accountants' report.

TOWN OF FENWICK ISLAND
STATEMENT OF REVENUES AND EXPENDITURES - BUDGET AND ACTUAL - GENERAL FUND
- CONTINUED
FOR THE PERIODS ENDED JULY 31, 2009

- 7 -

	Actual July 09	Actual Aug - July 09	Budget	% of Budget
Expenditures				
GENERAL GOVERNMENT				
General Government Insurance	\$ 1,194	\$ 61,459	\$ 65,000	95%
General Government Telephone	695	7,565	8,100	93%
General Government Website	-	107	2,500	4%
General Government Legal	1,781	13,920	30,000	46%
General Government Audit	-	8,428	8,000	105%
General Government Postage	600	3,000	6,000	50%
General Government Printing & Advertising	221	1,638	5,000	33%
General Government Utilities	700	13,846	14,000	99%
General Government Appraisal	-	4,000	5,500	73%
General Government Emergency Management	-	-	1,000	0%
General Government Sewer	-	460	400	115%
General Government Dues	-	759	1,500	51%
General Government Service Grants	500	2,500	2,500	100%
General Government Recycling	1,612	12,374	-	100%
General Government Building Maintenance	3,312	8,537	6,000	142%
General Government Cell Phones	335	4,399	7,000	63%
General Government Contract Services	348	4,576	10,500	44%
General Government County Fee Tax Billing	666	666	800	83%
General Government Miscellaneous	60	14,214	7,000	203%
General Government Employee Relations	261	3,561	4,000	89%
General Government Codification	-	4,260	5,000	85%
General Government Pension Administration	-	1,547	3,000	52%
General Government Government Liaison	-	2,539	2,500	102%
General Government Median Maintenance	-	45	4,000	1%
General Government Community Projects	(746)	479	2,500	19%
General Government Community Outreach	845	1,186	2,000	59%
General Government Ambulance Service	-	25,582	26,730	96%
General Government Trash Collection	9,626	115,515	121,000	95%
General Government Capital Expenditures	-	253,000	-	100%
TOTAL GENERAL GOVERNMENT	22,010	570,162	351,530	162%
Total Expenditures	194,288	1,719,043	1,622,398	106%
EXCESS REVENUES OVER (UNDER) EXPENDITURES	\$ (136,545)	\$ (121,958)	\$ -	

See accountants' report.

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TOWN OF FENWICK ISLAND
REALTY TRANSFER TAX FUND
FOR THE PERIODS ENDED JULY 31, 2009
FYE JULY 31, 2009

<u>MONTH</u>	<u>STARTING BALANCE</u>	<u>TAXES COLLECTED</u>	<u>INTEREST</u>	<u>TRANSFERS IN</u>	<u>TRANSFERS OUT</u>	<u>ENDING BALANCE</u>
August '08	\$ 1,756,975	10,125	2,685	-		\$ 1,769,785
September '08	1,769,785	-	2,681	-	(10,000)	1,762,466
October '08	1,762,466	38,475	4,136	-	-	1,805,077
November '08	1,805,077	-	2,413	-	(249,756)	1,557,734
December '08	1,557,734	5,550	1,988	-	10,000	1,575,272
January '09	1,575,272	-	16,706	-	-	1,591,978
February '09	1,591,978	-	1,195	-	-	1,593,173
March '09	1,593,173	39,000	868	-	-	1,633,041
April '09	1,633,041	-	2,331	-	-	1,635,372
May '09	1,635,372	30,750	851	-	-	1,666,973
June '09	1,666,973	-	776	-	-	1,667,749
July '09	1,667,749	-	2,975	-	-	1,670,724
TOTALS	<u>\$ 1,756,975</u>	<u>123,900</u>	<u>39,605</u>	<u>-</u>	<u>(249,756)</u>	<u>\$ 1,670,724</u>

TOWN OF FENWICK ISLAND
Monthly Reconciliation Of Checking and Savings Accounts
For the Periods Ended July 31, 2009

Checking - PNC Bank of Delaware

	Ending	Beginning
General Fund	\$ 96,418.37	\$ 83,409.98
Petty Cash	200.00	200.00
MSA Fund	2,608.82	1,727.97
Payroll Fund	(12,977.45)	4,264.60
SALLE Fund	3.28	0.27
EIDE Drug Enforcement	2,498.64	3,669.50
Criminal Justice	126.14	126.12
Parks & Recreation Fund	2,394.67	337.00
SLEAF Fund	30.00	30.00

Total Checking \$ 91,302.47 \$ 93,765.44

Savings - PNC Bank of Delaware

MSA Fund Savings	\$ 5,294.34	\$ 8,292.16
General Fund Savings	68,143.87	90,996.19
Realty Transfer - Non Reserve	86,393.74	86,357.07

Total Savings \$ 159,831.95 \$ 185,645.42

Total Cash \$ 251,134.42 \$ 279,410.86

INVESTMENTS

Wilmington Trust Company - DELGIP

General Fund Savings	\$ 330,774.38	\$ 330,727.13
Beach Replenishment	35,350.75	35,346.80
Realty Transfer Non Reserve	567,742.52	567,679.54
Realty Transfer Reserve	315,296.42	315,261.46

Certificates of Deposit and Other Investments

Realty Transfer Fund

WTC 6 Month CD @ 1.35%	-	347,002.76
Sussex County FCU	349,321.20	-
PNC 13 Month CD @ 2.8%	176,087.18	175,821.08
Edward Jones Investments - CD's	175,882.79	175,626.31

Total Investments \$ 1,950,455.24 \$ 1,947,465.08

Total Cash & Investments \$ 2,201,589.66 \$ 2,226,875.94

RESERVE ACCOUNTS

Parks & Recreation	closed	\$ -	\$ 1,479.03
Compensated Absences		19,148.47	19,148.47
Police Pension	closed	-	-

To: Town Council & Town Manager
From: Capt. Tim Ferry, FIBP
Re: Beach Patrol Report July 2009

The month of August to date has seen more typical summer weather but our statistics remain below average to average due to inactivity in the Atlantic. We have experienced hot & sunny days but our surf conditions have been calm to moderate. We have also seen a significant increase in our beach crowd especially Friday – Sunday. We are also starting to see the usual attrition of personnel due to school and sports starting but will be able to effectively cover our beaches through Labor Day. There may be some days during the last week of August that have some stands not utilized, but our ATV will be used to compensate those areas.

Statistics (August to date):

Rescues = 38

Lost/Returned children = 24

Medical Emergencies = 14

Ambulance calls = 2

Junior Lifeguards: This summer has been the largest turnout for our Junior Lifeguard program. We accommodated more children than ever before and over 25 children took part in the Advanced program held throughout the summer. We also had over 20 Junior Guards participate in the Rehoboth Beach Junior Lifeguard Olympics attended by hundreds of children from 8 other agency programs. We are already looking forward to next summer and ways to enhance our program.

Competition: The FIBP continued their impressive performances in competitions this summer taking home a 1st place, three 2nd place, and two 4th places in the local venues. At the USLA Nationals, Tim Ferry placed 1st in Master's Beach Flags (and qualified for World Championships in Sydney Australia), Randy Vanderhook took 4th place in Open Beach Flags, and the 4 X 100 relay took Bronze in their defense of their National Championship. Sussex County placed 4th overall in the country behind LA County, Monmouth County, NJ, & Volusia County, FL

Lifeguard of the Year: Courtney Aburn has been selected by her peers as our 2009 Lifeguard Of The Year. She was recently recognized by the Bethany/Fenwick Chamber of Commerce at their after - hours social. Courtney is a 4th year guard and is going to be a senior at Delaware in the Fall where she is a scholarship Lacrosse player. She is very well-deserving of this award. Additional awards given at the annual dinner held at Warren's Station included Randy vanderhook – Captain's Award & Brett Costantino – Rookie of the Year.

Respectfully submitted,

Capt. Tim Ferry

**TOWN OF FENWICK ISLAND
BUILDING REPORT
JULY 2009**

PERMIT #	PROPERTY DESCRIPTION	PROJECT DESCRIPTION	E.C.C.	TOTAL
3780	J & J Bulkheading C. Sherman 1406 Bora Bora St. Lots 179/180 1-34 23.12 130.00	Repair/replace existing boathouse, piles & deckwork	\$8,000.00	\$240.00
3781	Atlantic Remodeling C. Sherman 1406 Bora Bora St. Lots 179/180 1-34 23.12 130.00	Re-shingle roof on garage	\$2,000.00	\$60.00
3782	M. Villalon 9 E. Canon St. Lot 7 1-34 23.16 7.00	Replace rotted deckboards on boardwalk	\$1,600.00	\$50.00
3783	R. Banziger 4 E. King St. Lot 13 1-34 23.08 15.00	Enclose 322 sf storage area in existing garage	\$1,500.00	\$50.00
3784	Top to Bottom Maint. R. Weigle 49 Madison Ave. Lot 234 1-34 23.16 171.00	Replace rotted deckboards	\$2,500.00	\$75.00
3785	Double Diamond Bldrs. M. Madden 6 E. Essex St. (2/3) Lot 13 1-34 23.12 250.00	Re-shingle roof	\$5,800.00	\$174.00
3786	Double Diamond Bldrs. T. Winner 32 W. Atlantic St. Lot 93 1-34 23.16 131.00	Re-shingle roof	\$5,300.00	\$159.00
3787	N. Martin 1305 Schulz Rd. Lot 8 1-34 23.12 18.00	Re-shingle roof	\$3,400.00	\$102.00
3788	Seaside Country Store S. Vickers 1208 Coastal Hwy. Lots 60/61 1-34 23.12 16.00	Re-shingle roof	\$11,172.00	\$335.00

3789	Boardwalk Bldrs. R. Lewis 3 E. Georgetown St. Lot 10 1-34 23.12 212.01	Re-shingle roof, replace cedar siding, replace 5 windows & shutters	\$30,390.00	\$928.00
3790	Atlantic Diversified Cons. W. Schnitzer 9 W. Hosuton St. Lots 142 & (1/2) 143 1-34 23.12 134.00	Replace aluminum window capping	-0-	-0-
3791	J. Balsamo 1100 Coastal Hwy Lots 50/51/52 1-34 23.12 67.00	4'x20' wooden fence	-0-	-0-
3892	M. Lang 1705 Coastal Hwy. Lot N/A 1-34 23.08 22.00	Revise BP#3641 (add'l cost of construction)	\$294,873.00	\$8,846.00
3793	J. Balsamo 1100 Coastal Hwy Lots 50/51/52 1-34 23.12 67.00	Re-surface portion of parking lot & replace sidewalks along bulkhead & State ROW	\$2,200.00	\$66.00
		TOTAL	\$368,735.00	\$11,085.00

PUBLIC WORKS DEPARTMENT REPORT
July 9, 2009 to August 18, 2009

The following activities have been performed by the Public Works Department for this time period.

- Drainage, shoulder, sign, and post work was performed throughout this time frame.
- Routine maintenance of buildings, equipment, grounds and median was performed during this time frame.
- Cut and trim grass in right of way and park.
- Repair washout at the end of Glenn Ave.
- Clean off John Quill flowers in median.
- Remove Tiger Lilly stalks off median.
- Assist in removal and replacement of irrigation controller for park.
- Repair West Farmington rock end.
- Build carry rack for lifeguard ATV to carry beach wheelchair.
- Repair beach wheelchair.
- Repair lifeguard stand from Farmington beach end.
- Clean and touch up paint on recycle barrels on beach ends
- Build and rework a push lawn mower cart from a old cart that Jim Purnell donated.
- Replaced gate pulls on park gates
- Safety meeting 7-15-09 on how to avoid electrical hazards and general truck driving
- Water town flower pots throughout town.
- Remove and replace items in town hall for painting
- Blow sand off ocean side streets after heavy rain

- Set up, take down, and put away park decorations for Fenwick Island Days

Respectfully submitted,

Wilmer E. Abbott IV
Town Manager

FENWICK ISLAND POLICE DEPARTMENT

MEMORANDUM

TO: PRESIDENT
COUNCIL MEMBERS
CITIZENS

FROM: Chief William Boyden

DATE: August 11, 2009

SUBJECT: JULY MONTHLY REPORT

Attached you will find the Police Report for the month of July 2009.
The report is submitted for your review and approval.

Summary of report:

	2009	2008
Traffic Arrests/Citations	101	174
Total Number of Complaints	90	83
DUI Arrests	2	6
Criminal Arrests	14	8
Parking Tickets	72	46

TO: Fenwick Island Town Council
FROM: Winnie Lewis, Chair , Planning Commission

A joint meeting of the Planning Commission and the Cultural and Historic Preservation Sub-committee met on Friday July 31, 2009. Members finalized plans for Old Fenwick Island Days activities.

The Planning Commission thanks all who helped to make Old FI Days a success. We especially want to thank Fenwick Island Town Council for their support. Those who provided assistance include: FISH, Fenwick Island Lions, Fenwick Island Women's Club, Hastings Funeral Home, PNC Bank, Delaware Humanities Forum, New Friends of the Fenwick Lighthouse, Dairy Queen, Mayor Serio, Mary Pat Kyle, Sonny Long, Harry Haon and Dr. Robin Underhill. 267 visitors signed the guestbook.

The Cultural and Historic Preservation Sub-committee will meet September 8 @1PM to evaluate the program. The Planning Commission meets September 8 @2:30PM.

Respectfully Submitted,

Winnie Lewis
WL/adip

Existing:

Chapter 100 - Licensing

§100-3 - License fees.

A. Any person engaged, for profit, in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service within the Town at or from any given establishment as follows shall pay an annual fee as set by resolution of the Town Council from time to time:

- (1) Each establishment used as a restaurant or eating establishment or carry-out food establishment.
- (2) Each establishment used for real estate sales or rentals.
- (3) Each establishment for sale of any merchandise and/or commodities and/or combination thereof.
- (4) Each establishment used as a bank or lending institution.

Add:

- (5) *Each concession that operates in Town and/or on the beach.*

Chapter 116 Peace and Good Order - 116-2:

Existing:

§116-2. Soliciting sales on public beaches.

It shall be unlawful for any person to sell or solicit the sale of anything on any part of the public beaches or public streets within the corporate limits of the Town of Fenwick Island, Delaware.

Add:

Add to the end of this sentence: “unless such activity is approved by Town Council.”

Chapter 160 – Zoning:

Add:

Chapter 160-2B (Definitions and Word Use):

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine (rotor, blades, generator, alternator, tail), a tower, and associated control or conversion electronics, and which is intended primarily to reduce on-site consumption of utility power.

TOTAL HEIGHT (SMALL WIND ENERGY SYSTEM): The distance measured from ground level (including the wind turbine itself) to its highest point.

Add:

Chapter 160-7 – Renewable Energy Systems:

B. Small Wind Energy Systems - Tower

1. Provisions, regulations and conditions for small wind energy systems are as follows:

- a. Maximum Rated Capacity:** No more than one tower-mounted small wind energy system may be placed on a property and may not exceed 10 kilowatts of production.
- b. Minimum Yard Requirement:** The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to 1.1 times the total height. A turbine may be located at a property line by variance from the Board of Adjustment which shall consider whether the abutting property owner objects.
- c. Total Height:** Total height (including the wind turbine itself) shall not exceed 40 feet above grade and tower shall be independent of any other structures on property.
- d. Noise:** Sound produced by the system under normal operating conditions, as measured at the property line, shall not exceed fifty-five (55) dBA. Manufacturer's specifications will serve as verification of dBA levels. Any complaints that noise from the small wind energy system exceeds 55 dBA shall be accompanied by an independent certified source. This sound level may be exceeded during short-term events such as utility outages and/or severe windstorms.
- e. Appearance:** Wind turbines shall be painted in a non-obtrusive color such as the manufacturer's default color option.
- f. Compliance with Building Code:** System must obtain a building permit and must comply with applicable requirements of the International Building Code.
- g. Inspections:** A final inspection by Sussex County Building Code Official of the installation, including an electrical inspection, is required before a system may be activated.
- h. Requirement for Engineered Drawings:** Building permit applications for small wind energy systems shall be accompanied by standard drawings of the system and stamped

engineered drawing of the tower, base, footings, and/or foundation (with consideration given to specific soil conditions) as provided by the manufacturer. A manufacturer's specification sheet including a photograph of the system shall accompany the application for the building permit.

- i. **Compliance with Federal Aviation Administration Regulations:** Small wind energy systems shall comply with FAA regulations described in FAR Part 77 of the FAA guidance on airspace protection.
- j. **Compliance with National Electric Code:** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. Wiring and power lines shall be wireless or underground whenever possible.
- k. **Unsafe or Abandoned Systems:** If a system is found to be unsafe by the Building Official, the system must be repaired and made code compliant within 30 days of notification of the property owner. A system that is unused or abandoned for a period of more than 12 months shall be ordered by the Building Official to be made operational or removed within 30 days of such order.
- l. **Signage:** No signs or advertising shall be displaced on any part of a system other than the manufacturer or installer's identification and appropriate safety warning signs.
- m. **Lighting:** No illumination of the system shall be permitted unless required by the FAA, or unless the tower is also used for street or parking lot lighting, or some similar compatible use.
- n. **Safety:** Any steps or other devices to assist the climbing of the tower must start at 12' above ground level.

EXISTING:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit of \$50 before issuing a permit for a bonfire on the beach, with the provision that \$40 shall be returned if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored, and \$10 shall be retained as a permit fee.

§ 73-3. Rules for Bonfire:

- H. The beach must look as though you were never there. Thoroughly clean area and remove any trash or other debris. Remember to leave only your footprints.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$50 and costs for each and every offense.

PROPOSED:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit before issuing a permit for a bonfire on the beach with the provision that it shall be returned only if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored. In addition, the bonfire permit holder shall pay a fee and deposit to the Town as set by resolution of the Town Council passed annually.

§ 73-3. Rules for Bonfire:

- H. Thoroughly clean area and remove any trash or other debris.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$100 and costs for each and every offense.

Charter – Section 15:

Existing:

Section 15 – Vacancy.

Proposed:

Section 15 – Vacancies and Forfeitures:

- A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or forfeiture of such office. In case of vacancy created in the Town Council, by death, resignation or otherwise, the remaining members of the Council may fill such vacancy by appointment. The person so appointed shall serve for the unexpired term or until his or her successor shall be elected and duly qualified.
- B. Forfeiture proceedings. A forfeiture of such office shall occur when any Town Council member:
 - (1) Is no longer qualified to hold such office;
 - (2) Willfully violates any provision of this Charter;
 - (3) Is convicted of any felony or crime involving any felony; or
 - (4) Fails to attend three (3) regular Town Council meetings per fiscal year without being excused by Town Council vote.
- C. Determination concerning Forfeiture. Where the conditions set forth in Section 15 (B), items (3) or (4) occur, forfeiture shall be automatic. Where the conditions set forth in 15 (B), items (1) or (2) are alleged, forfeiture shall be approved by the remaining Town Council members. Such decision shall be made in executive session, and if the Town Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Town Council, which hearing is to be held within forty five (45) days of the written request and at which hearing such member may appear with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.
- D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him/her."